TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL NOTE

HB 530 - SB 831

March 27, 2009

SUMMARY OF BILL: Requires the Commissioner of Revenue to notify tobacco distributors no less than 30 days before excluding a brand family from the directory of certified manufacturers and brand families. Requires the Commissioner to notify persons or stores that sell or make available tobacco products directly to the ultimate consumer no less than 60 days before excluding a brand family from the directory. Authorizes a tobacco distributor or retailer, when the commissioner elects not to include a brand family or tobacco product manufacturer on the directory, to sell all affected tobacco products until such distributor or retailer's supply is exhausted, as long as such products have the proper tax stamps affixed.

ESTIMATED FISCAL IMPACT:

Decrease State Revenue – Exceeds $1,000,000/Recurring
Increase State Expenditures - $4,700/One-Time
$1,011,400/Recurring

Assumptions:

- According to the Department of Revenue (DOR), notifications of tobacco brands or manufacturers being dropped from the directory listing is currently provided on the department's Web site. This information is updated daily.
- DOR indicates that taxpayers may currently register for email notification when changes are made to the directory listing. As a result, the taxpayer is responsible for being informed of any changes made to the directory listing under current law.
- This bill requires specific notification be made to distributors and retailers within certain periods of time. As a result, the responsibility of becoming informed will shift from distributors and retailers to DOR. DOR will have to send out notifications by mail of any changes to the directory listing.
- DOR indicates that approximately 160,000 notifications would need to be sent for every change to the directory listing. Assuming one change

per month and mailing costs of $0.50 per notification, the increase to recurring state expenditures is estimated to be $960,000 per year (160,000 x 12 months x $0.50 = $960,000).

- DOR would require one additional position for processing notifications. The associated increase to recurring state expenditures is estimated to be $51,400 per year ($26,400 salary, $17,700 benefits, $7,300 other). One-time state expenditures associated with the position is estimated to be $4,700 (computer, software, etc.).
- DOR indicates that this bill effectively gives distributors and retailers an unlimited amount of time to exhaust inventories of brands that will be removed from the Tennessee directory listing in the future. Under current law, the Special Investigations Division is authorized to seize such products immediately, but in practice allow for a short grace period before seizure. Given an unlimited amount of time, non-participating manufacturers are likely to look to Tennessee when trying to sell brands that have been removed from multiple state directories.
- Tobacco Master Settlement funds are likely to decrease because participating manufacturers will be put at a distinct disadvantage as the result of non-participating manufacturers flooding the market with non-approved brands. As a result fewer approved products will be sold, thus reducing the total amount of Tobacco Master Settlement funds. The extent of such decrease is dependent upon multiple unknown factors. However, the decrease to state revenue is reasonably estimated to exceed $1,000,000 per year.

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

James W. White, Executive Director

/rnc